Docket No.: 000166.0051-US05
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jean Mesens, *et al.*

Application No.: 09/578,908-8073

Group Art Unit: 1626

Filed: May 26, 2000

Examiner: E. Sackey

For: MICROENCAPSULATED 3-PIPERIDINYL-SUBSTITUTED 1,2-BENZISOXAZOLES AND 1,2-BENZISOTHIAZOLES

#8 Bw 6-21-01

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed May 25, 2001 (Paper No. 6), Applicants hereby provisionally elect Group I claims 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19 for continued examination, with traverse.

The Examiner has required restriction between the following five groups:

I. Claims 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19, drawn to biodegradable and biocompatible polymer;

II. Claims 2, 4, 6, 8, 10, 12, 14, 16, 18, and 20, drawn to microparticles comprising risperidone;

III. Claims 21-23, drawn to microparticle composition comprising 1,2 benzazole;

IV. Claims 24, 27, and 28, drawn to sustain-release microparticle composition; and

V. Claims 25 and 26, drawn to a method of making a multi-phasic sustain-release microparticle composition.

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 C.F.R. § 1.142(a)). Applicants respectfully request reconsideration of the requirement for restriction between the Group I and the Group II claims. Applicants respectfully submit that it is proper to examine the Group I and Group II claims in the same application.

Independent claim 1 is directed to a method of treating warm blooded animals suffering psychotic disorders through the administration of microparticles that are produced using a biodegradable and biocompatible polymer and risperidone, 9-hydroxy-risperidone, or pharmaceutically acceptable acid addition salts thereof. Independent claim 2 is directed to a method of treating warm blooded animals suffering from psychotic disorders through the administration of microparticles that comprise risperidone, or a pharmaceutically acceptable acid addition salt thereof, and a biodegradable and biocompatible polymeric matrix. Therefore, both independent claims 1 and 2, and claims 3-20 depending directly or indirectly therefrom, are directed to microparticles having both a biodegradable and biocompatible polymer and risperidone. Accordingly, all of claims 1-20 are directed to microparticles having the characteristics of both Groups I and II. For at least this reason, Applicants respectfully submit that both Groups I and II should be examined in the present application.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0740 referencing docket number 00166.0051.US05.

Prompt and favorable consideration of this response is respectfully requested.

Dated: June 18, 2001

Respectfully submitted,

By _____

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